## BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

VICKI HARVEY Claimant	}
VS.	, ) ) Docket No. 187,637
THE HERTZLER CLINIC, PA	) Docket No. 167,037
Respondent AND	) }
EQUITY MUTUAL INSURANCE	) }
Insurance Carrier AND	) )
KANSAS WORKERS COMPENSATION FUND	) )

## ORDER

Claimant requests review of the Preliminary Hearing Order entered by Administrative Law Judge George R. Robertson on January 24, 1995.

### Issues

The Administrative Law Judge denied claimant's requests for authorization of Dr. Reschly to perform surgery and for reimbursement of medical mileage related to obtaining prescribed medication. Claimant requests review of those findings. Claimant also contends the Administrative Law Judge erred by not allowing her to testify at the hearing. Those are the issues now before the Appeals Board.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, for purposes of preliminary hearing, the Appeals Board finds as follows:

At this juncture of the proceedings the Appeals Board lacks jurisdiction to review both issues of medical authorization and reimbursement of medical mileage. Regarding the contention claimant was not permitted to testify, the transcript of the Preliminary

Hearing was carefully reviewed and we find it contains no such request. Therefore, we are unable to review that issue.

The Legislature empowered the Appeals Board under K.S.A. 44-534a(a)(2) to review preliminary findings pertaining to the following:

- (1) Whether the employee suffered an accidental injury;
- (2) Whether the injury arose out of and in the course of the employee's employment;
- (3) Whether notice was given or claim timely made; and,
- (4) Whether certain defenses apply.

IT IS SO ORDERED

Questions surrounding medical authorization, including reimbursement of medical mileage, are not issues or preliminary findings that the Appeals Board may review. Further, because the Administrative Law Judge has not exceeded his jurisdiction and authority, the Appeals Board does not have jurisdiction to review this Preliminary Hearing Order under K.S.A. 44-551, as amended by S.B. 59, 1995. This ruling comports with many of our earlier decisions.

If not resolved, the issues raised by claimant may be reviewed by the Appeals Board at the time of final award upon proper application.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge George R. Robertson entered in this proceeding on January 24, 1995, remains in full force and effect, and that this review is dismissed.

THO GO GREEKED.	
Dated this day of April, 1995.	
BOARD MEMBER	
BOARD MEMBER	

# BOARD MEMBER

c: Robert Lee, Wichita, KS Stephen Jones, Wichita, KS Robert Anderson, Ellinwood, KS George R. Robertson, Administrative Law Judge George Gomez, Director